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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

PHI Health, LLC

Petitioner ,

v.

Whiteriver Unified School District #20;
Meritain Health, Inc., and XYZ Corp.,

Respondents.

No. _____

**COMPLAINT TO CONFIRM
ARBITRATION AWARD**

PHI Health, LLC (“PHI”) brings this complaint to confirm two related arbitration awards entered in PHI’s favor (“IDR Award 157283” and together with “IDR Award 157284,” the “IDR Awards”) and to enter judgment for PHI in the amount of \$38,285.12.

INTRODUCTION

1. This action is necessary because Defendants have refused to pay to PHI the money that they were ordered to pay in arbitration awards rendered pursuant to the federal No Surprises Act.

2. PHI is an air ambulance company that provides emergency medical transports to patients across the country. PHI transported a patient covered by Defendants. After Defendants refused to pay PHI’s billed charges for this service, PHI initiated an arbitration pursuant to the federal No Surprises Act. That Act gives PHI the power to compel group health insurance plans and insurers to participate in binding

1 arbitration over the amount of reimbursement owed. The arbitration is called
2 “Independent Dispute Resolution,” or IDR; the arbitrator is called an “IDR entity.”

3 3. The No Surprises Act makes the IDR entity’s determination “binding
4 upon the parties involved,” and requires the Group Health Plan or insurer to pay what it
5 owes within thirty calendar days after the IDR entity’s determination is made.

6 4. This confirmation action is made necessary because Defendants have
7 failed—for many months—to pay PHI what the IDR entity’s determination, and the No
8 Surprises Act, require Defendants to pay for PHI’s services.

9 5. PHI therefore brings this petition, pursuant to the federal No Surprises
10 Act, the Federal Arbitration Act (“FAA”), and the Arizona Revised Uniform Arbitration
11 Act (“ARUAA”) to enter an order confirming the IDR Awards and for judgment against
12 Defendants for the amount of money owed PHI.

13 **PARTIES**

14 6. PHI is a limited liability company organized under the laws of the State of
15 Louisiana and headquartered in Phoenix, Arizona. PHI does not have a network contract
16 with Defendants; PHI is thus a “nonparticipating provider” for purposes of the No
17 Surprises Act.

18 7. On information and belief, Defendant Whiteriver Unified School District
19 #20 (“Whiteriver”) is the Plan Sponsor of the Group Health Plan that provided coverage
20 to the patient whose transport is at issue (the “Group Health Plan”). Whiteriver is an
21 Arizona school district with its headquarters located at 959 South Chief Avenue,
22 Whiteriver, AZ 85941.

23 8. Defendant Meritain Health, Inc. (“Meritain Health”) is the Plan Insurer
24 and Third Party Administrator for the Group Health Plan that provided coverage to the
25 patient whose transport is at issue. Meritain Health is a New York corporation with its
26 headquarters located at 300 Corporate Parkway, Amherst, NY 14226, and it may be
27 served through its registered agent CT Corporation System at 3800 N Central Ave, Suite
28 460, Phoenix, AZ 85012. Meritain Health knows the identity of the Plan Sponsor of the

1 Group Health Plan that provided coverage to the patient whose transport is at issue in
2 this case.

3 9. If Whiteriver is not in fact the Plan Sponsor of the Group Health Plan that
4 provided coverage to the patient whose transport is at issue in this case, then the identity
5 of the Plan Sponsor is unknown to PHI and this action is instead brought against XYZ
6 CORP, the Plan Sponsor of the Group Health Plan that provided coverage to the patient
7 whose transport is at issue in this case. PHI does not know the identity of XYZ CORP.
8 Defendant Meritain Health is aware of the identity of XYZ CORP.

9 10. The Plan Administrator and the Plan Administrator's service agent are
10 for all relevant purposes agents of the Group Health Plan and have actual and apparent
11 authority to act on behalf of the Group Health Plan in all matters relevant here. Notice
12 to the Plan Administrator or a service agent for the Plan Administrator qualifies as
13 notice to the Group Health Plan. Actions of the Plan Administrator or a service agent for
14 the Plan Administrator in connection with the IDRs are imputed to the Group Health
15 Plan.

16 JURISDICTION AND VENUE

17 11. This Court has federal question subject-matter jurisdiction over this case,
18 pursuant to 28 U.S.C. § 1331, because this is an action to confirm a federal arbitral
19 award entered pursuant to the federal No Surprises Act, which federal law makes the
20 IDR award "binding" on Defendants and requires Defendants to pay what is owed
21 within thirty days of the IDR entity's decision. 29 U.S.C. §1185e(c)(5), (6).¹

22 12. Venue is proper in this District because Defendant Whiteriver "resides"
23 here. 28 U.S.C. § 1391(b).

24 13. This Court has personal jurisdiction over Defendants because Defendants

25
26 ¹ The No Surprises Act is codified in triplicate in three different parts of the U.S. Code:
27 42 U.S.C. § 300gg-111 *et seq.*; (the Public Health Service ("PHS") Act); 29 U.S.C. §§
28 1185e *et seq.* (ERISA); and 26 U.S.C. §§ 9816 *et seq.* (the Internal Revenue Code "IRC").
For ease of reference, this complaint cites ERISA. The other provisions do not differ from
the ERISA provisions in any way that is significant for purposes of this petition.

Whiteriver and Meritain Health have their offices in this State, do significant business in this State, and have a significant presence here. As part of its administration and service agent work, Meritain Health issued to PHI the Explanation of Benefits (“EOB”).

BACKGROUND ON THE NO SURPRISES ACT

14. The No Surprises Act creates a federal obligation for Group Health Plans and health insurers to pay out-of-network providers of air ambulance services (which the Act calls “nonparticipating providers”) for emergency services rendered to the plans’ or insurers’ covered members or insureds. Specifically, the Group Health Plan or insurer must pay the out-of-network air-ambulance provider the dollar amount by which the “out of network rate . . . exceeds the [patient’s] cost sharing amount.” 29

U.S.C. § 1185f(a)(3).

15. The NSA contains a detailed mechanism for determining what the appropriate “out of network” rate is in each case. If the out-of-network air ambulance provider and the health plan or insurer are not able to agree on the appropriate out-of-network rate, then the rate is set by a “determination” of a “certified IDR entity” rendered in an “independent dispute resolution [IDR] process.” 29 U.S.C.

1185e(c)(5)(E).

16. The IDR process is baseball-style arbitration. Each side (the air ambulance provider and the Group Health Plan or insurer) submits its own “offer” to the IDR entity stating what it believes the appropriate out-of-network rate to be; each party also submits reasons and evidence supporting its offer. *Id.* § 1185e(c)(5)(B). The IDR entity considers a number of factors, *see id.* § 1185(c)(5)(C), and based on those factors “select[s] one of the offers submitted . . . to be the amount of payment,” that is, to be the appropriate out-of-network rate for that transport. *Id.* § 1185(c)(5)(A)-(E).

17. The IDR entity’s “determination” is made “binding” by the NSA, which states:

(E) Effects of determination

(i) In general

1 A determination of a certified IDR entity under subparagraph
 2 (A)--

3 (I) shall be binding upon the parties involved, in the
 4 absence of a fraudulent claim or evidence of
 5 misrepresentation of facts presented to the IDR
 6 entity involved regarding such claim; and

7 (II) shall not be subject to judicial review, except in a
 8 case described in any of paragraphs (1) through (4)
 9 of section 10(a) of Title 9.

10 29 U.S.C. 1185e(c)(5)(E). The statute just quoted “shall apply” to air ambulance IDR
 11 determinations. *Id.* § 1185f(b)(5)(D)-(E).

12 18. The Group Health Plan or insurer must make the “payment required
 13 pursuant to subsection (a)(3) [29 U.S.C. § 1185f(a)(3)] . . . directly to the
 14 nonparticipating provider not later than 30 days after the date on which such
 15 determination is made” by the IDR entity. *Id.* § 29 U.S.C. § 1185f(b)(6).

16 THE FACTS OF THIS DISPUTE

17 19. In May 2022, PHI supplied emergency air ambulance transport services to
 18 a patient who was a member of Defendants’ Plan. On information and belief, the
 19 patient’s identifying number under the policy was [REDACTED].

20 20. PHI sent Defendants a bill for these transportation services. As defined
 21 above, Defendant Meritain Health is the third-party administrator of Defendants’ Plan
 22 and is an authorized agent of Whiteriver or XYZ CORP. Defendant Meritain Health is
 23 the service agent on behalf of Whiteriver and is an authorized agent of Whiteriver.

24 21. In August of 2022, Meritain Health sent PHI “Explanation of Benefits”
 25 forms relating to the transport at issue in this case. The forms stated that the “Group
 26 Number” [REDACTED] The forms also stated that Meritain Health was making initial
 27 payments to PHI for the two service codes for this transport (A0431 and A0436), on
 28 behalf of Whiteriver.

22. The chart below sets forth the initial payments made by Defendants and the patient's "cost sharing" amounts:

Service Code	Initial Payment	Patient's "Cost Sharing"
A0431	\$15,851.58	\$1,518.10
A0436	\$5,082.75	\$0.00
TOTAL	\$20,934.33	\$1,518.10

23. On November 28, 2022, PHI initiated IDR proceedings by submitting valid and effective Notices of Initiation through the federal IDR Portal for the transport at issue in this case. PHI gave valid notice to Defendants, through Meritain Health, of the initiation of IDR proceedings.

24. The IDR dispute for service code A0431 was assigned IDR reference number 157283, and the IDR dispute for service code A0436 was assigned IDR reference number 157284. The IDR entity assigned to both disputes was Network Medical Review Company, Ltd. (the "IDR Entity").

25. The parties were required to submit offers to the IDR Entity according to the No Surprises Act, and PHI complied by submitting offers in both IDR proceedings.

26. On January 3 and 5, 2024, the IDR Entity transmitted to PHI its Written Payment Determination Notices, which include the "IDR Awards." The IDR Awards determine that the appropriate out-of-network rate for this transport in total (i.e., including both service codes) is \$60,737.55. The IDR Awards are attached hereto as Exhibit 1.

27. Defendants previously made an initial payment to PHI in the total amount of \$20,934.33, an amount less than the IDR Awards as set forth on Exhibit 1.

28. The No Surprises Act obligates Defendants to pay PHI a total amount of \$38,285.12 (the "IDR Award Balance Owed"), which represents (i) the "out-of-network rates" determined by the IDR Entity and set forth in the IDR Awards; minus (ii) the

patient's "cost sharing" amount as determined by Defendants, and minus (iii) the amounts previously paid by Defendants:

Service Code	IDR No.	IDR Award	Initial Payment	Patient's "Cost Sharing"	IDR Award Balance Owed
A0431	157283	\$27,861.00	\$15,851.58	\$1,518.10	\$10,491.32
A0436	157284	\$32,876.55	\$5,082.75	\$0.00	\$27,793.80
		\$60,737.55	\$20,934.33	\$1,518.10	\$38,285.12

29. To date, Defendants have not paid PHI the full amount it is owed, which is \$38,285.12.

CAUSES OF ACTION

Count I

Application to Confirm the IDR Award Under the Federal Arbitration Act, 9 U.S.C. § 9

30. PHI incorporates by reference the allegations of the preceding paragraphs.

31. The IDR Awards should be confirmed by judgment of this Court pursuant to the FAA, 9 U.S.C. § 9.

32. PHI and Defendants were required to participate in the IDRs pursuant to the NSA. 29 U.S.C. §1185f(b)(5)(B).

33. The IDR Awards are valid and have not been vacated or set aside by any authority.

34. No grounds exist for vacating, modifying, or correcting the IDR Awards.

35. Confirmation of the IDR Awards necessitates a money judgment in PHI's favor in the total amount that Defendants are obligated to pay to PHI.

Count II

Application to Confirm the IDR Award Under the Arizona Revised Uniform Arbitration Act

36. PHI incorporates by reference the allegations of the preceding paragraphs.

37. The IDR Awards should be confirmed by judgment of this Court pursuant to the Arizona Revised Uniform Arbitration Act. *See* ARIZ. REV. STAT. §12-3001, *et*

1 *seq.*

2 38. PHI and Defendants were required to participate in the IDRs pursuant to
3 the NSA. 29 U.S.C. §1185f(b)(5)(B).

4 39. The IDR Awards are valid and have not been vacated or set aside by any
5 authority.

6 40. No grounds exist for vacating, modifying, or correcting the IDR Awards.

7 41. Confirmation of the IDR Awards necessitates a money judgment in PHI's
8 favor in the total amount that Defendants are obligated to pay to PHI.

9 **Count III**
10 **Implied Right of Action Under the NSA**

11 1. The No Surprises Act ("NSA") includes an implied right of action against
12 Defendants for the amount owed to PHI.

13 2. Specifically, the NSA requires Defendants to make the "payment required
14 pursuant to subsection (a)(3) . . . directly to the nonparticipating provider not later than
15 30 days after the date on which such determination is made" by the IDR entity. 29
16 U.S.C. 1185f(b).

17 3. The NSA thus requires Defendants to pay \$38,285.12 to PHI for the
18 transport at issue in this case.

19 **PRAYER FOR RELIEF**

20 PHI requests that the Court enter final judgment in its favor and against
21 Defendants as follows:

- 22 A. Confirming the IDR Awards pursuant to the Federal Arbitration Act;
23 B. Confirming the IDR Award pursuant to the Arizona Revised Uniform
24 Arbitration Act;
25 C. Confirming the IDR Award pursuant to the No Surprises Act;
26 D. Ordering Defendants to pay PHI the amount of \$38,285.12, representing
27 the IDR Award Balance Owed;
28 E. Ordering Defendants to pay PHI's reasonable attorneys' fees and interest;

1 and

2 F. Awarding PHI all other relief to which it may be entitled.

3 RESPECTFULLY SUBMITTED this 2nd day of January, 2025.

4 **COPPERSMITH BROCKELMAN PLC**

5 By /s/ Malvika A. Sinha

6 Keith Beauchamp

7 Malvika A. Sinha

8 *Attorneys for Petitioner PHI Health, LLC*